

**PHYSICAL THERAPY BOARD OF CALIFORNIA**

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**APPROVED  
BOARD MEETING MINUTES  
August 4, 2005**

Department of Consumer Affairs Howe Avenue Complex  
1424 Howe Avenue, Greg Gorges Conference Room  
Sacramento, California 95825  
(916) 561-8200

*Thursday, August 4, 2005                      8:00 A.M.       - Board Meeting*

*Thursday August 4, 2005       8:00 A.M.*

**1. Call To Order and Roll Call**

President Chu called the meeting of the Physical Therapy Board of California to order at 8:05 a.m.  
Roll call was taken.

Donald Chu, PhD, PT – President  
Lorraine Kimura, PT - Vice-President  
Julie Brandt  
Ellen Wilson, PT

All members present.

**2. Approval of Minutes**

(A) May 12 & 13, 2005 – Board Meeting

Moved by Lorraine Kimura, Seconded by Julie Brandt to approve the May 12 & 13, 2005 meeting minutes. Vote: 4-0. Motion carried.

**3. President's Report – Donald Chu, PhD, PT**

(A) Update

President Chu reported the Governor and the Speaker of Assembly have not filled the board's vacant board member positions.

Ms. Wilson reported she would be submitting her resignation as a board member effective November 1, 2005.

(B) 2005 Meeting Dates

## APPROVED BOARD MEETING MINUTES

August 4, 2005

President Chu reported the October Board meeting would only be a one-day meeting on October 27, 2005. Mr. Hartzell reported the Consumer Advocacy Center meeting is on November 3 & 4, 2005 in Denver, Colorado.

### (C) Out-of-State Travel

Mr. Hartzell reported the Department of Consumer Affairs (DCA) has approved the out-of-state travel to send a representative to the Federation of State Boards of Physical Therapy meeting.

## 4. **Executive Officer's Report** -*Steven K. Hartzell*

### (A) Update

Mr. Hartzell reported, Maximus, the Board's Diversion Program vendor has requested to increase the participant fee based high costs incurred in developing the Diversion Program to meet contract requirements.

### (B) 2004 - 2005 Budget

### (C) 2005 - 2006 Budget & BCP's

Mr. Hartzell reported on the 2004-2005 Budget and directed members to the 2005-2006 Budget report included the agenda book.

### (D) Software Compliance Audit

Mr. Hartzell reported DCA is auditing the Board to determine software compliance.

### (E) Operational Board Audit by the Internal Audit Office for the 2005/2006 Sunset Review

Mr. Hartzell reported the Internal Audit Office, as part of the 2005/2006 Sunset Review, is also auditing the Board.

### (F) Application of B&P Section 30.

Mr. Hartzell explained the Board's legal counsel, Anita Scuri, reviewed the Board's application and other Board forms and notified staff the language addressing an applicant's social security number was incorrect and did not comply with the Business and Professions Section 30. Consequently, the Board will not be accepting applications without a social security number.

## 5. **9:00 A.M. Petition for Reinstatement Hearing**

### (A) Open Session - Petition for Reinstatement Hearing - Travis Smith, PTA

### (B) The Board will convene in CLOSED SESSION to deliberate per Government Code 11126(c)(3).

## 6. **The Board will convene in CLOSED SESSION to deliberate on disciplinary decisions and stipulations per Government Code 11126(c)(3)**

## APPROVED BOARD MEETING MINUTES

August 4, 2005

The Board's decisions on matters discussed in closed session are available on the web site at [www.ptb.ca.gov](http://www.ptb.ca.gov) once they are made public.

### **7. The Board will convene in CLOSED SESSION to Approve California Law Examination Questions per Government Code 11126(c)(1)**

### **8. Approve Recommended Pass Point for the California Law Examination**

Moved by Ellen Wilson, Seconded by Julie Brandt to approved the Office of Examination Resources' (OER) recommended pass point for the California Law Examination. Vote: 4-0. Motioned carried.

President Chu expressed his appreciation to Nancy Linn at OER and to all the subject matter experts that volunteered their time to assist the Board in the development of the California Law Examination.

### **9. Board will take Action on Implementation Date of the Pass Point on the National Physical Therapy Examination with the Federation of State Boards of Physical Therapy**

Mr. Hartzell explained the Federation of State Boards of Physical Therapy's (FSBPT) position on maintaining the set date on the new pass point for the National Physical Therapy Examination (NPTE). However, OER does not agree with the FSBPT's position and encourage the Board to rescure the individuals that failed the NPTE during the period of March 8 through May 12, 2005 to determine if any of these individuals would have passed the NPTE. Mr. Hartzell reported there are 16 applicants who have been affected, four out of the 16 have already retaken the NPTE and have passed.

Moved by Ellen Wilson, Seconded by Julie Brandt to rescure the remaining 12 applicants to determine if they would have passed the NPTE with the FSBPT's new pass rate. Vote: 4-0. Motion carried.

### **10. Rulemaking – Michael McCormick**

(A) Modification of Effective Date & Resolution of other Issues Raised by Office of Administrative Law on Section 1399.50 & 1399.52 Physical Therapy Fee

Mr. McCormick advised the board that on August 1, 2005, the Office of Administrative Law (OAL) disapproved the proposed regulatory action based on the Clarity and Consistency standard of Government Code section 11349.1.

He further advised the board that OAL specifically identified four specific areas of consistency and one specific item regarding the clarity of the proposed language. They are as follows:

#### Consistency Issues

1. The proposed amendment for section 1399.50, subdivision (c), would allow payment of examination and re-examination fees directly to the Federation of State Boards of Physical Therapy (FSBPT) at the level established by the FSBPT for all states. This was deemed by OAL to be inconsistent with Business and Professions Code section 2688, subdivision (b).

2. The proposed amendment for section 1399.50, subdivision (d), contained two separate amounts for the law and regulation examination fee for physical therapists to be paid directly to the FSBPT at the level established by the FSBPT. OAL determined only one fee was applicable, based on Business and

## APPROVED BOARD MEETING MINUTES

August 4, 2005

Professions Code section 2688, (subdivision (b)).

3. The proposed amendment for section 1399.52, subdivision (b), was referenced to the same issues contained in number (1.) above.

4. The proposed amendment for section 1399.52, subdivision (d), was referenced to the same issues contained in number (2.) above.

### CLARITY

1. The previously language proposed amendments to section 1399.50, subdivisions (c) and (d) and section 1399.52, subdivisions (b) and (c) and established a deadline for applications to be postmarked no later than June 30, 2005, and if that deadline was met then the applicable fee must be paid directly to the Board.

The deadline date of June 30, 2005, was declared problematic by OAL. Even if the proposed regulations had been reviewed, approved and filed at the Secretary of State, the effective date would have been after the date specified in the proposed language, and there was no statutory authority for the regulation to be effective retroactively. Requiring the applicants to meet a deadline that has already passed would be impossible to comply with and also raised the issue of what application procedure and fee would be required after the effective date.

Mr. McCormick advised the Board that the proposed language addresses these issues by eliminating references to the FSBPT and setting clear amounts required for the examination and re-examination fees for the National Physical Therapy Examination; eliminating references to the FSBPT and clearly requiring one fee for the law and regulation examination and re-examination fee; changing effective dates of the proposed amendments to January 1, 2006, allowing ample time to implement the regulations upon approval.

Moved by Ellen Wilson, Seconded by Lorraine Kimura to delegate to the executive officer the authority to make the identified changes and to work with OAL on the issues of direct payment and to submit the file to OAL, after expiration of the 15-day comment period, if there are no adverse comments. Vote: 4-0. Motion carried.

### (B) Rulemaking in Progress

Mr. McCormick reviewed the rulemaking calendar included in the agenda book.

## **11. Strategic Planning – Rebecca Marco**

### (A) Strategic Planning Matrix Chart

Ms. Marco reported she recently received Travis McCann's recommendations on the style of formatting the Strategic Plan and that staff will be reviewing his recommendations and making the necessary changes.

Ms. Marco and Ms. Mitchell reviewed the matrix chart and identified and reported on the items with the June 30 deadline date.

## APPROVED BOARD MEETING MINUTES

August 4, 2005

### **12. Board will Review & Act on Proposed Revisions to the Physical Therapy Practice Act to be included in the 2006 Legislation**

Mr. Hartzell reviewed and identified items in the proposed Physical Therapy Practice Act that needed direction by the Board.

Moved by Lorraine Kimura, Seconded by Julie Brandt to accept as written with Board's current amendments and to move forward by including the Proposed Physical Therapy Practice Act in the Sunset Report. Vote: 4-0. Motion carried.

### **13. Approval of Draft Sunset Report – *Steven K. Hartzell***

(A) Delegation of Final Approval of Sunset Report

Mr. Hartzell and Arlyce Ten Broeck reviewed with the Board their final changes to the Sunset Report.

Moved by Ellen Wilson, Seconded by Lorraine Kimura to approve the draft Sunset Report with recommended amendments and to delegate to the Board President final approval. Vote: 4-0. Motion carried.

### **14. Licensing - *Ellen Wilson, PT***

(A) The Board will review and take actions on applications submitted by individuals who are applying for licensure as a physical therapist or a physical therapist assistant (e.g. letters of appeal, requests for application extensions, credential reports that do not meet the criteria for review at the staff level)

(B) Notification of OAL Approval for Section 1398.26.1 (ELEERs)

The Licensing Bullets are included at the end of the minutes.

### **15. Practice Issues - *Lorraine Kimura, PT***

(A) Update on practice issues that have been submitted to the Board.

The Practice Issues Bullets are included at the end of the minutes.

### **16. Disciplinary Action Report – *Donald Chu, PhD, PT***

President Chu reported on the Disciplinary Action Report included in the agenda book.

### **17. Consumer and Professional Associations and Intergovernmental Relations – *Steve Hartzell***

(A) California Physical Therapy Association (CPTA)

Mr. Hartzell reported the CPTA's annual conference will be held in Ontario on October 20-22, 2005 and encourage members to notify staff if they will be attending the conference.

(B) Federation of State Boards of Physical Therapy (FSBPT)

(C) California Consumer Affairs Association (CCAA)

(D) Department of Consumer Affairs (DCA)

## APPROVED BOARD MEETING MINUTES

August 4, 2005

Mr. Hartzell encouraged members to attend the Board Member Orientation training class in Southern California on September 21, 2005.

- (E) Citizen Advocacy Center (CAC)
- (F) California Board of Occupational Therapy (CBOT)

Ms. Mitchell directed members to the briefing paper on the May 31, 2005 CBOT meeting included in the agenda book and reported the CBOT is still in the process of searching for a new executive officer.

- (G) Board of Chiropractic Examiners (BCE)

Mr. McCormick directed members to the briefing paper he handed out on the BCE's August 3, 2005 meeting.

- (H) Speech-Language Pathology and Audiology Board (SLPAB)

### **18. Legislation**

- A) 2005 Legislation
- B) 2006 Proposed Legislation

Moved by Ellen Wilson, Seconded by Lorraine Kimura to delegate the Board President to take action on any legislation that might arise prior to the next Board meeting.

### **19. Items for Next Meeting Agenda**

- (A) PTBC Meeting – October 27, 2005 in Oakland

### **20. Public Address**

### **21. Adjournment**

Moved by Ellen Wilson, Seconded by Lorraine Kimura to adjourn the Board meeting at 4:00pm.  
Vote: 4-0. Motion carried.

*The August 4, 2005 Board meeting minutes were not approved at the October 27, 2005 Board meeting because there was not a quorum.*

*The August 4, 2005 Board meeting minutes were inadvertently not placed on the February 6 & 7, 2006 Board meeting, which resulted in these minutes being forward to the May 4, 2006 Board Meeting. The May 4, 2006 Board meeting did not have a quorum. Therefore, the August 4, 2005 meeting minutes were not approved.*

*The August 3, 2006 Board meeting did not have a quorum. Therefore, the August 4, 2005 meeting minutes were not approved.*

*The Board President at the August 4, 2005 Board meeting was Donald Chu. However, Nancy Krueger was the Board President at the November 9, 2006 meeting when the minutes were approved.*

## APPROVED BOARD MEETING MINUTES

August 4, 2005

Moved by Debra Alviso, Seconded by Sara Takii to approved the August 4, 2005 meeting minutes based on the review by the members that were serving on the Board at the time of the meeting.

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Nancy Krueger, PT – President

Date